

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-269-C - ORDER NO. 1999-762
OCTOBER 26, 1999

IN RE: Application of Image Access, Inc. d/b/a)	ORDER GRANTING	✓ NR
NewPhone for a Certificate of Public)	AUTHORITY TO	
Convenience and Necessity to Provide Resold)	PROVIDE LOCAL	
Local Exchange Telecommunications)	SERVICES	
Services within the State of South Carolina.)		

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Image Access, Inc. d/b/a NewPhone ("Image Access" or the "Company") requesting a Certificate of Public Convenience and Necessity to provide resold local exchange telecommunications services within the areas of the State of South Carolina served by BellSouth Telecommunications, Inc. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Image Access complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”). On August 27, 1999, Counsel for SCTC filed with the Commission a Stipulation in which Image Access stipulated that it would seek authority only in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent’s service area, unless and until the Company provided written notice of its intent prior to the date of the intended service. Image Access also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Image Access agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on October 6, 1999, at 11:30 a.m., in the Commission’s Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. Image Access was not represented by counsel. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Jim R. Dry, Vice President and an owner of Image Access, appeared and testified in support of the Company’s application. Mr. Dry testified that Image Access seeks authority to provide resold competitive local exchange services in the State of South Carolina under the tradename of NewPhone. The record reveals that Image Access seeks to provide services on a prepaid basis. The services which Image Access propose to offer

include dial tone, 800 access, and calling options. Mr. Dry stated that Image Access intends to resell the services of BellSouth and to operate as a new competitive local exchange carrier in those areas of the state served by BellSouth.

Mr. Dry described the managerial, technical, and financial resources of Image Access. According to Mr. Dry, Image Access is a Louisiana corporation which has received authority from the Secretary of State of South Carolina to conduct business in South Carolina as a foreign corporation. Mr. Dry stated that Image Access has sufficient capital to support its venture into South Carolina and offered that Image Access has adequate backing from its owners as well as from financial institutions. With regard to the managerial qualifications of the Image Access, Mr. Dry offered that Image Access is managed by persons with extensive business experience as well as experience in regulated utilities. With regard to technical qualifications, Mr. Dry stated that as a reseller Image Access intends to rely upon the technical expertise of its underlying carrier for maintenance and administration of network services. As further evidence of Image Access' abilities to provide the services for which it seeks authority, Mr. Dry offered that Image Access is authorized to provide its services in six states.

Mr. Dry testified that Image Access will participate in the support of universally available telephone service at affordable rates to the extent required by the Commission and that Image Access will provide service that meets the service standards of the Commission. In addition, Mr. Dry's testimony indicates the Company will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Dry offered that approval of Image Access' application will further the public interest by expanding the availability of local exchange services in South Carolina,

particularly to that segment of the population which has been denied basic phone service due to a poor credit history or outstanding debt owed to the incumbent local exchange carrier.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Commission finds Image Access is a company which provides local exchange telecommunications services and desires to provide its services in South Carolina.

2. The Commission finds Image Access has the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280 (B)(1) (Supp. 1998).

3. The Commission finds Image Access will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B)(2) (Supp. 1998).

4. The Commission finds that the services proposed by Image Access "will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1998).

5. The Commission finds that Image Access will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280 (B)(4) (Supp. 1998).

6. The Commission finds that the provision of local exchange service by Image Access “does not otherwise adversely impact the public interest.” S.C. Code Ann. § 58-9-280 (B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Image Access authorizing Image Access to provide resold local exchange telecommunications services within the State of South Carolina in those areas of the State served by BellSouth. The provision of local exchange telecommunications services shall be subject to the Stipulation between Image Access and the SCTC, and the terms of the Stipulation between Image Access and SCTC are approved and adopted as a portion of this Order. Any proposal to provide local services in rural service areas is subject to the terms of the Stipulation.

2. Image Access shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. Image Access shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, Image Access shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Image Access shall file with the Commission the names, addresses, and telephone numbers of

those representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, Image Access shall promptly notify the Commission in writing if the representatives are replaced.

4. Image Access shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts report will necessitate the filing of intrastate information with the Commission. Therefore, Image Access shall keep financial records on an intrastate basis to comply with the requirement of filing the annual report and gross receipts report.

5. Image Access shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

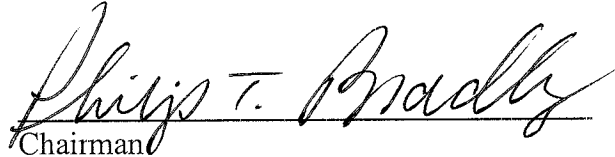
6. Image Access is directed to comply with all Commission regulations unless a regulation is expressly waived by the Commission.

7. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Image Access to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before


beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Image Access, shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

DOCKET NO. 1999-269-C - ORDER NO. 1999-762
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ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-269-C

Re: Application of Image Access, Inc., d/b/a NewPhone)
for a Certificate of Public Convenience and)
Necessity to Provide Resold Prepaid Local)
Exchange Telecommunications Services in)
the State of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Image Access, Inc. d/b/a NewPhone ("NewPhone") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to NewPhone's Application. SCTC and NewPhone stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to NewPhone, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. NewPhone stipulates and agrees that any Certificate which may be granted will authorize NewPhone to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. NewPhone stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. NewPhone stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until NewPhone provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, NewPhone acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. NewPhone stipulates and agrees that if, after NewPhone gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then NewPhone will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. NewPhone acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions

contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

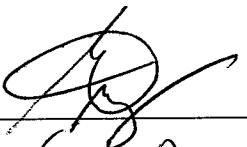
8. NewPhone agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. NewPhone hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

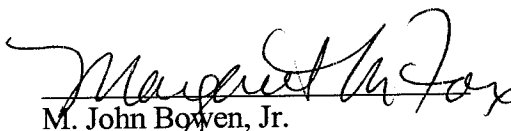
AGREED AND STIPULATED to this 20 day of August, 1999.

Image Access, Inc. d/b/a NewPhone

South Carolina Telephone Coalition:



Gene Day
President
Image Access, Inc.



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Post Office Box 11390
(803) 799-9800

Attorneys for the South Carolina
Telephone Coalition

ATTACHMENT A
South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company